

HEALTH SERVICES AND DEVELOPMENT AGENCY
MINUTES
AUGUST 27, 2008

AGENCY MEMBERS PRESENT

Koella, Carl, III, Chair
Handorf, Charles, M.D., Vice Chair
Caldwell, Gene, M.D.
Gaither, Keith, designee for the TennCare Director
Jones, Clark
Lammert, Gregory
Morris, John, designee for the Commissioner of Commerce and Insurance
Troy, Peggy

AGENCY MEMBERS ABSENT

Atchley, Bryan
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant III
Brogden, Reid, General Counsel
Christoffersen, Jim, Deputy General Counsel
Craighead, Alecia, Statistical Analyst III
Earhart, Phillip, Health Planner III
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Wells, Phil, Health Planner III

GUESTS PRESENT

Baker, E. Graham, Esq.
Beard, Jean, Memphis RE, LLC
Biliyar, V.B., M.D., Skyline Medical Center
Brent, Michael D., Esq., Boulton, Cummings, Connors & Berry
Brinson, Edward, Social Services Director, Skyline Medical Center
Brown, Dere, National HealthCare Corporation
Burr, Ed, Assistant Director of State Audit, Tennessee Comptroller of the Treasury
Casey, Nan, Skyline Medical Center
Casey, Pam, Esq., Bass, Berry & Sims, PLC
Clark, Holly, CEO, Henderson County Community Hospital
Corritore, Danell, Department of Health
Culp, Joe, Department of Health
Day, Edwin W., Consultant
Delage, Kay, Skyline Medical Center
Duckett, Greg, Senior General Counsel, Baptist Memorial Health Care
Duncan, Bruce, National HealthCare Corporation
Elrod, Dan H., Esq., Miller & Martin

Evinsky, Reid, General Counsel, The West Clinic
 Exline, Kyle, The Heritage
 Ferraro, S., Bass, Berry & Sims
 Fowler-Clark, Holly, Henderson County Community Hospital
 Garfield, Michael, CEO, Skyline Medical Center
 Grace, Frank, Esq., Waller, Lansden, Dortch & Davis
 Griffin-Bakoskey, Sandra K., Administrator, The Heritage at Brentwood
 Hall, Julie, Compliance Manager, Life Care Services, LLC
 Harkness, Eric, Planning & Research Coordinator, Division of Health Planning, Finance & Administration
 Hayes, Art, Director of State Audit, Tennessee Comptroller of the Treasury
 Howard, Jill, Director of Nursing, Skyline Medical Center
 Huggins, Mike, Tennessee Hospital Association
 Killingsworth, Patti, Assistant Commissioner, TennCare Director of Long-Term Care
 Lackey, Lebron, M.D.
 Larson, Kent C., Sr. Vice President, The Heritage at Brentwood
 Little, Jason, CEO, Baptist Memorial Health Care
 Maples, Arthur, Director Strategic Analysis, Baptist Memorial Health Care Corporation
 Martin, Derek, Audit Manager, Tennessee Comptroller of the Treasury
 McNally, Sara, Saint Thomas Health Services
 Ockerman, Jeff, Director, Health Planning, Tennessee Department of Finance & Administration
 Penny, Linda, Comptroller's Office
 Pippin, Melissa, OutReach Coordinator, Skyline Medical Center
 Poling, Becki, Director Hospital Services, Tennessee Department of Mental Health/Developmental Disabilities
 Potter, Jeff, LBMC
 Rainey, Jerry, The Heritage
 Reisz, Cindy, Esq., Bass, Berry & Sims
 Rice, Marty, Skyline Medical Center
 Sain, David, Memphis RE, LLC.
 Schultz, Brad, CFO, Skyline Medical Center
 Sneed, Scarlett, Audit Manager, Tennessee Comptroller of the Treasury
 Stephenson, Kate, Esq., Trauger & Tuke
 Sydow, Phil, CEO, UT Cancer Institute
 Tagatz, Jon, Executive Director, The Heritage at Brentwood
 Tauer, Kurt, Medical Oncologist, The West Clinic, P.C.
 Taylor, Jerry W., Esq., Farris, Mathews, Branam, Bobango, Hellen & Dunlap, PLC
 Thompson, Ann R., RN, BSN, MBA, Director of Licensure, Department of Health
 Trauger, Byron R., Esq., Trauger & Tuke
 Wellborn, John L., Consultant, Development Support Group
 West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz

Mr. Koella, called the meeting to order at 8:30 a.m. in Meeting Room 12, of The Legislative Plaza, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made the following announcements.

- Recommendation that November and December meetings be set for the third Wednesdays of each month, those dates being November 19th and December 17th.
- Executive Session will meet at lunch to hear from Art Hayes, Director of State Audit, Comptroller's Office. The purpose of the meeting is for Mr. Hayes to meet members of the Audit Committee, to describe its responsibilities and to review the results of the Financial and Compliance Audit.
- Nomination and Election of Audit Committee Members, Chair and Vice-Chair will be moved from Item 6 on the Agenda to the third item under "Other Business". Current members of the Audit Committee are: Mr. Koella, Dr. Caldwell, Mr. Atchley, Mr. Gaither, and Mr. Jones.

OTHER BUSINESS

- A. Long Term Care Community Choices Act: Patti Killingsworth, Assistant Commissioner, TennCare Director of Long-Term Care presented an outline of the Long Term Care Community Choices Act.
- B. State Health Plan – Jeff Ockerman, Director, Division of Health Planning, Finance & Administration discussed the status of development of the state health plan.
- C. Audit Committee Election of Members, Chair and Vice-Chair.
Dr. Handorf was nominated by Dr. Caldwell. Mr. Jones seconded.
Mr. Gaither was nominated by Mr. Koella. Ms. Troy seconded.
Mr. Jones was nominated by Dr. Caldwell. Dr. Handorf seconded
Mr. Koella was nominated as Chair by Mr. Lammert. Ms. Troy seconded.
Mr. Atchley was nominated by Dr. Caldwell. Mr. Jones seconded.

Ms. Troy moved to accept nominations as presented. Mr. Lammert seconded. The motion carried CARRIED [8-0-0]

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Jones, Koella

NAY: None

Dr. Handorf was nominated as Vice-Chair by Mr. Koella. Mr. Jones seconded.

The motion CARRIED [8-0-0] by unanimous voice vote.

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Jones, Koella

NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

The L.R. Dampier Cosmetic Surgery Center, PLLC - (Maryville, Blount County) - Project No. CN0803-018

The establishment of a single-specialty ambulatory surgical treatment center (ASTC) limited to cosmetic/aesthetic surgery and related clinical procedures. The center will have one (1) operating room and one (1) procedure room. The project will not require new construction as it will be in approximately 5,000 square feet of leased space in an existing professional medical park known as Cherokee Professional Park, Building No. 4. Project Cost \$1,086,915.00.

WITHDRAWN

Skyline Medical Center -- Madison - (Madison, Davidson County) - Project No. CN0804-029

The initiation of a hospital based sixteen (16)-bed residential alcohol and drug (A&D) treatment service for adolescents with a stay of greater than twenty-eight (28) days and re-designation of sixteen (16) acute care beds to residential A&D treatment beds for adolescents at the Skyline Madison campus. Skyline Medical Center is currently licensed for 458 hospital beds, of which 255 are authorized at its Madison Campus. The proposed adolescent A&D treatment program will occupy a dedicated sixteen (16)-bed unit and will be operated under the hospital's current license as hospital beds designated for A&D services for adolescents. The project does not include any major medical equipment, discontinue any health service, or change the hospital's total licensed bed complement. Project Cost \$600,000.00.

Kay Delage addressed the Agency on behalf of the project. Michael Garfield, CEO, spoke in support. Present in support of the project were: V.B. Biliyar, M.D.; Marty Rice; Edward Brinson, Social Services Director; Brad Schultz, CFO; Melissa Pippin, OutReach Coordinator; Jill Howard, Director of Nursing; Nan Casey; John L. Wellborn, Consultant; and Jerry W. Taylor, representing the applicant.

Dr. Caldwell moved for approval of the project based on: 1) Need – The need is defined by Tennessee Department of Children's Services (DCS); 2) Economic Feasibility – The project is economically feasible and cash reserves will be used; and 3) The project does contribute to the orderly development of adequate and effective health care based on DCS's definition that this is a needed state service, has a DCS contract, and there are not many beds available for this service. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Jones, Koella
NAY: None

Somerfield at the Heritage - (Brentwood, Williamson County) - Project No. CN0804-030

The addition of thirty (30) skilled nursing facility beds. This project will increase the beds from thirty-six (36) to sixty-six (66) and all beds will be Medicare certified. Project Cost \$6,494,152.00.

Frank Grace, Esq., representing the applicant, addressed the Agency. Julie Hall, Compliance Manager, Life Care Services, LLC, spoke on behalf of the project. Present in support were: Kent C. Larson, Sr. Vice President; Sandra K. Griffin-Bakoskey, Administrator, The Heritage at Brentwood; and Jon Tagatz, Executive Director, The Heritage at Brentwood.

Ms. Troy moved for approval of the project based on: 1) Need – The need has been demonstrated through the formula; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. The CON will expire in three (3) years. Mr. Lammert seconded the motion. The motion CARRIED [7-1-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Koella
NAY: Jones

Cleveland Radiology - (Dayton, Rhea County) - Project No. CN0805-033

The initiation of mobile positron emission tomography (PET) services one (1) day a week (or two (2) half days) on the campus of Rhea Medical Center. The project does not contain major medical equipment and does not initiate or discontinue any other type of service. Project Cost \$323,040.00.

Lebron Lackey, M.D. addressed the Agency on behalf of the project. John L. Wellborn, Consultant, was present.

Mr. Morris moved for approval of the project based on: 1) Need – The need has been established; 2) Economic Feasibility – The project is economically feasible through cash reserves; and 3) The project does contribute to the orderly development of adequate and effective health care as it will increase the convenience for the patients. Mr. Jones seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Jones, Koella
NAY: None

Ms. Troy and Dr. Handorf recused.

The West Clinic, P.C. d/b/a Baptist-Humphreys Cancer Center - (Memphis, Shelby County) - Project No. CN0805-034

The initiation of linear accelerator services using equipment and related assets currently owned and operated by Baptist Memorial Hospital. The project will be operated under the name of Baptist-Humphreys Cancer Center. The project will utilize three (3) existing linear accelerators and other radiation oncology equipment in approximately 19,105 square feet of space. The project establishes a new provider for existing radiation oncology services, and does not affect beds or add any new linear accelerators. Project Cost \$15,515,938.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were Kurt Tauer, Medical Oncologist, The West Clinic, P.C.; Greg Duckett, Senior General Counsel, Baptist Memorial Health Care; Reid Evinsky, General Counsel, The West Clinic; and Jason Little, CEO, Baptist Memorial Health Care.

Opposing the project were Cindy Reisz, Esq., representing UT Cancer Institute and Phil Sydow, CEO, UT Cancer Institute.

Mr. Taylor rebutted.

Ms. Reisz provided summation for the opposition.

Mr. Taylor provided summation for the applicant.

Mr. Jones moved for approval of the project based on: 1) Need – The need is expressed for the change of ownership; 2) Economic Feasibility – The project is economically feasible based on the financials presented here and the testimony from other people about the financials of the West Clinic; and 3) The project does contribute to the orderly development of adequate and effective health care. Dr. Caldwell seconded the motion. The motion CARRIED [5-0-1]. **APPROVED**

AYE: Morris, Caldwell, Gaither, Jones, Koella

NAY: None

ABSTAINED: Lammert

Lunch Break

GENERAL COUNSEL'S REPORT

Reid Brogden summarized the following requests for modifications:

Ms. Troy and Dr. Handorf recused.

High Pointe Health and Rehabilitation Center - (Bartlett, Shelby County) - Project No. CN0605-030A

Request for an extension of the expiration date for seven (7) months from October 1, 2008 to May 1, 2009. This project was approved at the August 23, 2006 meeting for the relocation and construction of a replacement facility for an existing 112 bed nursing home with an expiration date of October 1, 2008 and a project cost of \$5,980,000.00.

Michael Brent, Esq., representing the applicant, addressed the Agency. Present on behalf of the project were Jean Beard, Memphis RE, LLC and David Sain, Memphis RE, LLC.

Mr. Morris moved for approval of a twelve (12) month extension of the expiration date from October 1, 2008 to October 1, 2009. Mr. Lammert seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Morris, Lammert, Caldwell, Gaither, Jones, Koella

NAY: None

Ms. Troy and Dr. Handorf recused.

Methodist Healthcare-Fayette Hospital - (Somerville, Fayette County) - Project No. CN0705-038

Request to increase magnetic resonance imaging (MRI) services from one (1) day to three (3) days per week. This project was approved at the August 22, 2007 meeting for the initiation of mobile MRI services one (1) day per week with an expiration date of October 1, 2010 and a project cost of \$469,975.00.

Byron Trauger, Esq., representing the applicant, addressed the Agency.

Mr. Lammert moved for approval of the request to increase magnetic resonance imaging (MRI) services from one (1) day to three (3) days per week. Dr. Caldwell seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Morris, Lammert, Caldwell, Gaither, Jones, Koella
NAY: None

Henderson County Community Hospital - (Henderson, Lexington County) - Project No. CN0405-046

Request to increase mobile magnetic resonance imaging (MRI) services from one (1) day to three (3) days per week. This project was approved at the August 25, 2004 meeting for the initiation of mobile MRI services one (1) day per week with an expiration date of October 1, 2006 and project cost of \$184,000.00.

William H. West, Esq., representing the applicant, addressed the Agency. Holly Clark, CEO was present on behalf of the project.

Dr. Handorf moved for approval of the request to increase magnetic resonance imaging (MRI) services from one (1) day to three (3) days per week. Mr. Lammert seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Jones, Koella
NAY: None

Quality Health Care Center - (Lebanon, Wilson County) - Project No. CN0609-072

Request for an extension of the expiration date from February 1, 2009 to August 1, 2010. This project was approved at the December 20, 2006 meeting for the construction of twenty-four (24) nursing home beds at the existing nursing home to convert existing semi-private rooms into private rooms to change the nursing home from a medical model to a social model. This is an onsite modification that did not increase the 290 nursing home bed complement nor were the beds subject to the 2006-007 nursing home bed pool. The expiration date is February 1, 2009 with a project cost of \$4,009,000.00.

E. Graham Baker, Jr., Esq., representing the applicant, addressed the Agency.

Dr. Handorf moved for approval of the request for the extension of the expiration date from February 1, 2009 to August 1, 2010. Mr. Jones seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Jones, Koella
NAY: None

MINUTES

Mr. Jones moved for approval of the minutes of the July 23, 2008, meeting [with amendments regarding General Counsel's Report description of Henderson County Community Hospital, CN0405-046A]. Dr. Handorf seconded. The motion CARRIED [8-0-0] by unanimous voice vote.

AYE: Morris, Troy, Lammert, Caldwell, Handorf, Gaither, Jones, Koella
NAY: None

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab